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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,447	03/12/2004	Darin Barri	MAT 313	2005
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EXAMINER				
CHEUNG, VICTOR				
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3714				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/801,447

**Applicant(s)**

BARRI, DARIN

**Examiner**

VICTOR CHEUNG

**Art Unit**

3714

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3 and 27-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 27-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This Office Action is in response to the reply filed 12/16/2008.

Claims 1, 3, and 27-39 are pending.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 29-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzer et al. (US Patent No. 7,223,170) in view of Applicant's disclosure.

See the Response to Arguments section for further explanations.

Re Claim 1: Kinzer et al. disclose an interactive DVD gaming system comprising a DVD for use with a standard DVD player generally having sixteen general parameter registers (Col. 6, Lines 6-62), a controller for use with the DVD player (Fig. 1, Ref. No. 108), the DVD player being configured to accept game input from the controller (Col. 7, Lines 27-34) and to hold one or more game variables, each game variable having a value (Col. 8, Lines 25-32), wherein the controller includes a communication subsystem configured to provide user-provided game input to the DVD player through first and second user-operated control buttons causing the communication subsystem to provide first and second distinct game inputs (Col. 7, Lines 27-34), the DVD including

data including at least one sequence of audiovisual content and one or more game scripts operable to define a game variable, associate a value with a game a defined game variable, change a value of the game variable to a value that is determined simultaneously by both the type of game input accepted from a controller and the value of the game variable, and control game flow based on the value of one or more game variables (Col. 15, Lines 32-53; Col. 21, Lines 29-52). Kinzer et al. disclose that the process of shuffling through the clips involves performing operations on the current clip value and the jump value to determine the new current clip value (Col. 18, Lines 24-41). Thus, as Kinzer et al. disclose that pressing specific buttons on the controller causes the system to determine and calculate new current clip and jump values, Kinzer et al. disclose that the value of the game variable changes by both the type of game input accepted from the controller and the value of the game variable, simultaneously.

In general, Kinzer et al. disclose a game using a standard DVD player including a plurality of clips (audio, video, text, etc.), wherein a user controlled remote control with a plurality of buttons is used to effect gameplay elements including navigating through menus, navigating through clip playback, and initializing the clip tables that control the game flow of overall clip playback. Navigation and game flow is accomplished by defining the current state of the game and using the input to decide the next step.

Regarding the limitation of the DVD player having a maximum of 1 kilobyte of onboard memory, while Kinzer et al. do not disclose that the invention is limited to using a special DVD player having the memory constraints present in conventional DVD players, they do not specifically disclose the size of the general parameter register memories. Kinzer et al. disclose that the invention uses the “capabilities available to a DVD player,” which the Examiner interprets as having the same meaning of being a “conventional” DVD player. Kinzer et al. disclose that the invention is directed

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specifically to using the limited capabilities of a DVD player (Col. 6, Lines 28-62). The invention of Kinzer et al. is designed to work within the restraints of the DVD-Video specification which was 16 GPRMs at the time of the invention, but in no place does Kinzer et al. disclose that 16 GPRMs must be used. In fact, Kinzer et al. disclose an embodiment in which four sets of clips are used in the game, and Kinzer et al. further disclose that clip set only requires one GRPM (Col. 21, Lines 16-28). Additionally, as evidenced by the Applicant's specification, "conventional" DVD players generally have eight, sixteen, or twenty-four registers, equating to less than one kilobyte of memory (Specification Page 8).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a maximum of 1 kilobyte of memory on the DVD player of Kinzer et al., as it has been disclosed that Kinzer et al. use a conventional DVD player, and conventional DVD players include less than 1 kilobyte of memory, and it would have been obvious to use a conventional DVD player already in existence, as Kinzer et al. do not require a special particular DVD player.

Re Claim 3: Kinzer et al. disclose the DVD is formatted according to the DVD-Video Standard (Col. 6, Lines 6-15).

Re Claim 29: Kinzer et al. disclose the use of a wireless remote control (Fig. 1, Ref. No. 108) to communicate with the DVD player.

However, Kinzer et al. do not specifically disclose the remote control including a light emitting diode configured to transmit wireless signals.

Examiner takes OFFICIAL NOTICE that the use of light emitting diodes, often in the form of infrared light emitting diodes, in remote controls is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide an efficient wireless input method to the DVD player.

Re Claims 30-31, 39: Kinzer et al. disclose a method of selecting and displaying clips (audio, video, text, etc.), the method including accepting inputs that change values of game variables including values of the clip table, that guide the flow of the game. Such values include clip locations and next-clip locations such that the user can initialize and navigate through the desired clips as part of the game flow through game inputs. (Col. 7, Lines 27-34; Col. 15, Lines 32-53; Col. 18, Line 42-Col. 19, Line 31; Col. 21, Lines 29-52).

Re Claim 32: Kinzer et al. disclose the one or more game scripts operable to distinguish between first and second game inputs (Col. 7, Lines 29-34; Col. 7, Line 65-Col. 8, Line 10; Col. 15, Lines 26-53). Note that nearly all communications systems must be operable to distinguish between inputs if a plurality of different inputs are present.

Re Claims 33-35, 37: As discussed above in regards to claim 1, Applicant has disclosed that conventional DVD players, which are used by Kinzer et al., include limitations such as having no more than eight, sixteen, or twenty-four general and system parameter register memories, wherein a sixteen general parameter register memory includes eighty bytes of memory (Specification Page 8).

Furthermore, with regard to having the specific quantities of 8, 16, and 24 general and system parameter register memories, Applicant has not disclosed that having these specific numbers

of register memories solves a stated problem or is for any particular purpose. Moreover, the invention of Kinzer et al. would perform equally well under any number of register memories (Col. 6, Lines 38-42). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include 8, 16, or 24 memories, as the choice would have been a design choice which fails to patentably distinguish over the prior art.

Re Claim 36: Kinzer et al. disclose the register memories as discussed in claim 1 above. Inherent of such memories, the register memories include segments of bits and bytes.

Regarding the limitation “to hold more than one variable,” the language used to describe the invention is an intended use of the invention. The Applicant’s method of using the plurality of segments found in the register memories to hold more than one variable does not result in a structural difference between the claimed invention and the prior art that would render it patentably distinguishable.

Re Claim 38: Kinzer et al. disclose an initialization game script operable to format the memory storage means of the DVD player to designate memory to hold values for each variable defined and to associate an initial value to each variable defined (Col. 18, Lines 42-63).

4. Claims 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinzer et al. and the Applicant’s disclosure, as applied to claim 1 above, and further in view of Setogawa (US Patent No. 6,469,718).

Re Claims 27-28: As discussed above with regard to claim 1, Kinzer et al. disclose a plurality of game inputs. Kinzer et al. disclose that a player can input different input numbers to choose clips to be played (Col. 7, Lines 29-34; Col. 7, Line 65-Col. 8, Line 10). Kinzer et al. disclose that specific inputs can be set to cause the system to determine and calculate new current clip and jump values (Col. 15, Lines 26-53).

However, Kinzer et al. do not specifically disclose that a first value can be changed to a second or third value with corresponding audiovisual content based on game inputs.

Setogawa teaches a DVD player game including presenting scenes depending on the input value provided by the player (Col. 7, Lines 51-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include second and third values based on the first and second inputs, thereby providing the player with a more interactive experience through personalized multi-path video sequencing.

### ***Response to Arguments***

5. Applicant's arguments filed 06/17/2008 have been fully considered but they are not persuasive.

The Examiner believes that the majority of the arguments regarding claims 1, 31 are addressed in the rejection of claim 1 above. Furthermore, in response to the Applicant's arguments on page 15, the Examiner further reiterates that while Kinzer et al. disclose that 16 GPRMs are a constraint of the DVD-Video specification, Kinzer et al. do not disclose that a 16 GPRM-DVD player is required to be used in the invention, and that the invention is used within a standard DVD



player. In one embodiment, Kinzer et al. include four separate sets of clips, disclosing that each separate set of clips uses 1 GPRM. As detailed in the rejection of claim 1 above, Kinzer et al. disclose the use of standard DVD players, and the Applicant discloses that conventional DVD players include less than 1 kilobyte of onboard memory. The Examiner asserts in the rejection that it would have been obvious to include less than 1 kilobyte of onboard memory.

Regarding claim 32, Applicant argues that Kinzer et al. do not disclose game scripts operable to distinguish inputs. The Examiner previously cited lines 29-34 of column 7 to show the limitations. In the cited section, it is shown that the plurality of controls that normally operate a DVD player are used within the DVD game to control operation. As the different buttons perform different operations, the communications system received different electrical signals representing different inputs, but it is the DVD program/game that must recognize the inputs and accordingly perform whatever operation corresponds to the input. Additional sections have been cited in the rejection above. For example, during the game, a player may use the controls to choose a game number which initiates and retrieves the game clips for play, causing a game clip to appear. During the game, the player may also use the controls to skip clips, causing a new game clip to appear.

Regarding claims 33-35 and 37, Applicant argues that the use of 8, 16, or 24 general and system parameter register memories benefits the invention as demonstrated in paragraphs 26-31 of the Applicant's specification. While the Examiner does not dispute that having the limited resources of only 8, 16, or 24 registers creates limitations that are addressed by the Applicant's invention, it is understood by the Examiner that having 8 registers versus 16 or 24 registers, and also 16 registers versus having 24 registers, does not patentably distinguish each embodiment from one another. That

the DVD player may have either 8 or 16 or 24 register memories does not each solve a different problem or have a particular use. The number of register memories available is instead a design choice of the particular DVD player in use, as 8, 16, and 24 registers are included in conventional DVD players.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Massey (US Publication 2002/0053089) discloses an interactive DVD game in which different game inputs in a scene result in different resulting scenes.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR CHEUNG whose telephone number is (571)270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. C./  
Examiner, Art Unit 3714

/Scott E. Jones/  
Primary Examiner, Art Unit 3714